

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 21-cr-147 (ADM/TNL)

Plaintiff,

ARRAIGNMENT NOTICE

v.

**&
ORDER**

Sarah Jean Elwood (1), and
Geryiell Lamont Walker (3),

Defendants.

This matter comes before the Court on motions for extensions of time to file pretrial motions filed by Defendants Sarah Jean Elwood and Geryiell Lamont Walker. Elwood has filed a Motion to Extend Dates, ECF No. 64, and a Statement of Facts in Support of Defendant's Motion for Extension of Time to File Motions, ECF No. 65. Walker has filed a Motion for an Extension of the Time for Filing Pretrial Motions and a Continuance of the Motions Hearing Date, ECF No. 66, and a Motion and Statement of Facts in Support of Motion to Exclude Time Under the Speedy Trial Act, ECF No. 67.

Elwood and Walker request the same two-month extension of time for filing pretrial motions and a corresponding adjustment of the remaining deadlines due to, among other things, Elwood's ongoing treatment at Minnesota Adult and Teen Challenge and the need to review voluminous discovery with their respective counsel. ECF Nos. 64 at 1, 65 at 1, 66 at 1-2, 67 at 1-3. The Government has no objection to the requested extensions. ECF Nos. 64 at 1, 66 at 1.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On September 3, 2021, Chief Judge Tunheim entered General Order No. 30, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 30 (D. Minn. Sept. 3, 2021). General Order No. 30 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 30 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 30 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should a defendant**

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

² *See also* General Order No. 31, which went into effect on September 22, 2021, vacated General Order No. 29, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 31 (D. Minn. Sept. 16, 2021).

file pretrial motions, counsel shall also file a letter indicating whether that defendant consents to arraignment and a motions hearing by videoconference. *See also* ECF No. 36.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy trial and such continuance is necessary to provide Elwood, Walker, and their counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Elwood's Motion to Extend Dates, ECF No. 64, is **GRANTED**.
2. Walker's Motion for an Extension of the Time for Filing Pretrial Motions and a Continuance of the Motions Hearing Date, ECF No. 66, is **GRANTED**.
3. Walker's Motion and Statement of Facts in Support of Motion to Exclude Time Under Speedy Trial Act, ECF No. 67, is **GRANTED**.
4. The period of time from **September 29 through December 22, 2021**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) ("Exclusions of time attributable to one defendant apply to all codefendants." (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).
5. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **November 30, 2021**.

D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

6. **Should a defendant file pretrial motions, counsel shall also file a letter on or before November 30, 2021, indicating whether that defendant consents to arraignment and a motions hearing by videoconference.** *See* ECF No. 36.

7. Counsel shall electronically file a letter on or before **November 30, 2021**, if no motions will be filed and there is no need for hearing.

8. All responses to motions shall be filed by **December 14, 2021**. D. Minn. LR 12.1(c)(2).

9. Any Notice of Intent to Call Witnesses shall be filed by **December 14, 2021**. D. Minn. LR 12.1(c)(3)(A).

10. Any Responsive Notice of Intent to Call Witnesses shall be filed by **December 17, 2021**. D. Minn. LR 12.1(c)(3)(B).

11. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

12. **If required, the motions hearing shall take place before the undersigned on December 22, 2021, at 10:00 a.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.** D. Minn. LR 12.1(d).

13. The arraignment is likewise continued and shall take place before the undersigned on December 22, 2021, at 10:00 a.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

14. TRIAL: The trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Ann D. Montgomery to confirm the new trial date.

Dated: October 1, 2021

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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